



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Mauricio Claver-Carone, Esq.  
2501 M St., NW, #608  
Washington, D.C. 20037

JUN 13 2007

RE: MUR 5830

Dear Mr. Claver-Carone:

On October 5, 2006, the Federal Election Commission notified you and your clients, Cuba Democracy Advocates, Inc. and Leopoldo Fernandez Pujals, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). On May 23, 2007, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe that Cuba Democracy Advocates, Inc. violated 2 U.S.C. § 441e(a), or that you or Mr. Fernandez-Pujals violated 2 U.S.C. §§ 441e(a) or 441f. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). The Factual and Legal Analysis, which more fully explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Tracey L. Ligon, the attorney assigned to this matter at (202) 694-1650.

Sincerely,

Thomasenia P. Duncan  
General Counsel

A handwritten signature in black ink, appearing to read "Ann Marie Terzaken".

BY: Ann Marie Terzaken  
Acting Associate General Counsel  
for Enforcement

Enclosure  
Factual and Legal Analysis

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**FEDERAL ELECTION COMMISSION**  
**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENTS:** Leopoldo Fernandez-Pujals  
Cuba Democracy Advocates, Inc.  
Mauricio Claver-Carone

**MUR:** 5830

**I. INTRODUCTION**

This matter was generated by a complaint filed with the Federal Election Commission by the Citizens for Responsibility and Ethics in Washington alleging a violation of the Federal Election Campaign Act of 1971 ("the Act"), as amended by the Bipartisan Campaign Reform Act of 2002 ("BCRA"), by Leopoldo Fernandez-Pujals, Cuba Democracy Advocates, Inc. ("CDA" or "the corporation"), and Mauricio Claver-Carone.

**II. FACTUAL AND LEGAL ANALYSIS**

The complaint alleges that Leopoldo Fernandez-Pujals, a foreign national and the founder of CDA, violated 2 U.S.C. § 441e(a) by: (1) making indirect contributions to the PAC through Mauricio Claver-Carone, the Executive Director of CDA, who is paid with funds largely provided to the corporation by Fernandez-Pujals, and who used the salary payments to make a contribution of \$3,759.24 to the PAC; and (2) by participating, directly or indirectly, in the decision-making process of the PAC.

In response to the complaint, the PAC asserts that it has never received any sort of contribution from Mr. Fernandez-Pujals or any other foreign national, and that no foreign national has ever participated in, or directly or indirectly influenced, any decision-making process of the PAC. In a separate response to the complaint, CDA, Mr. Fernandez-Pujals, and Mr. Claver-Carone assert that CDA has never been involved in any political activity. Specifically, they assert that CDA compensates Mr. Claver-Carone in his capacity as the

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corporation's Executive Director solely for services rendered in furtherance of CDA's exempt purpose, and all political contribution and volunteer activities ever made by Mr. Claver-Carone were solely pursuant to his personal volition.<sup>1</sup> In addition, the Respondents assert that Mr. Fernandez-Pujals has never sought to direct or exert influence over any member of CDA's Board of Directors regarding election-related activities.

The Act prohibits foreign nationals from making direct or indirect contributions or donations of money or other things of value, or express or implied promises to make contributions or donations, in connection with an election to any political office. *See* 2 U.S.C. § 441e(a)(1); 11 C.F.R. § 110.20(b). The term "foreign national" includes, *inter alia*, individuals who are not citizens of the United States and who are not lawfully admitted for permanent residence as defined by 8 U.S.C. § 1101(a)(20). *See* 2 U.S.C. § 441e(b)(2); 11 C.F.R. § 110.20(a)(3)(ii). Likewise, no person may solicit, accept or receive a contribution or donation, as described in § 441e(a)(1)(A) and (B), from a foreign national. *See* 2 U.S.C. § 441e(a)(2); 11 C.F.R. § 110.20(g). A person knowingly accepts a prohibited contribution if that person has actual knowledge that funds originated from a foreign national, is aware of facts that would lead a reasonable person to conclude that there is a substantial probability that the source of the funds solicited is a foreign national, or is aware of facts that would lead a reasonable person to inquire whether the source of funds is from a foreign national but failed to conduct a reasonable inquiry. *See* 11 C.F.R. § 110.20(a)(4).

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<sup>1</sup> Respondents state that the exempt purpose of CDA "is to promote respect for human rights, representative democracy, and individual freedoms in Cuba," and assert that the organization pursues its exempt purpose "by means of the compilation, publication and dissemination of human rights violations by the Cuban government; advocacy campaigns in favor of the release of political prisoners in Cuba; educational forums and discussion panels on examples of transitions to democracy in Spain, Central and Eastern Europe, and Latin America; the design and promotion of humanitarian and infrastructure assistance programs for the Cuban civil society; and research focused on the economic, social, and cultural complexities of Cuba and the Cuban people."

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Contrary to the complaint's allegations, the available information does not indicate that Mr. Fernandez-Pujals made indirect contributions to the PAC through Mr. Claver-Carone, or by participating in the decision making process of the PAC. There is no information that indicates that Mr. Claver-Carone's compensation by CDA was paid for anything other than his bona fide employment as Executive Director of the corporation. The complaint's assertion that Mr. Fernandez-Pujals participated in the decision-making process of the PAC appears to be purely speculative. In contrast, the Respondents have submitted an affidavit sworn to by Mr. Claver-Carone, in which he avers that any contributions that he has made to the PAC have been solely pursuant to his personal will and volition, and that he has never made, or been asked to make, contributions, directly or indirectly, on behalf of Mr. Fernandez-Pujals or CDA. Because there is no information to support the complaint's allegation, there is no reason to believe that:

(1) Leopoldo Fernandez-Pujals violated 2 U.S.C. §§ 441e(a) or 441f by making foreign national contributions and doing so in the name of another; (2) Cuba Democracy Advocates, Inc. violated 2 U.S.C. § 441e(a) by receiving foreign national contributions as a conduit for indirect contributions to the PAC; or (3) Mauricio Claver-Carone violated 2 U.S.C. §§ 441e(a) and 441f by receiving foreign national contributions as a conduit for indirect contributions to the PAC, and allowing his name to be used to effect the making of a contribution in the name of another.